Ontario

Innovative Municipal Land Use Planning Practices

IN MUNICIPAL PLAN REVIEW AND THE ONE WINDOW PROVINCIAL PLANNING SERVICE

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Executive Summary

Innovative Municipal Land Use Planning Practices is intended to help municipal approval authorities implement Municipal Plan Review and the One Window Provincial Planning Service.

It provides municipalities and planning boards with:

- creative approaches in land use planning that have been developed and are currently being used by municipal approval authorities;
- case studies; and
- relevant contacts.

Innovative Municipal Land Use Planning Practices is a vehicle for municipalities and planning boards to share their experiences, from setting up internal review and approval procedures to conducting peer review. As well, other procedural ideas and approaches are included, such as municipal and local agency best practices to assess development of new lots proposed on small septic systems.

This document is designed for input and use by municipal planning employees, planning board members and staff, planning consultants and agencies such as the Conservation Authorities. All are encouraged to "help us help you" by letting the Ministry of Municipal Affairs and Housing know about additional innovative practices which we would collect and disseminate in regular supplements to this publication.

1. Introduction

A. Purpose

B. Audience

C. Format

D. Building our collective inventory

E. Other resources

Introduction

A. Purpose

Innovative Municipal Land Use Planning Practices is intended to help municipal approval authorities better implement Municipal Plan Review and the One Window Provincial Planning Service.

Specifically, this document provides municipalities and planning boards with:

- creative approaches in land use planning that have been developed by municipal approval authorities;
- examples of procedures that cover the full range of approval authorities in Ontario;
- case studies of alternative review models that help to minimize risk to the municipality;
- information on who does what; and
- relevant contacts.

Innovative Municipal Land Use Planning Practices is designed to provide municipalities and planning boards with a source and record of municipal innovative practices in Municipal Plan Review and One Window Provincial Planning Service.

B. Audience

This document is intended to be used by a range of professionals involved in the planning process, including: municipal staff, planning practitioners, planning consultants, planning board members and staff, and agencies such as Conservation Authorities and their staff.

C. Format

Innovative Municipal Land Use Planning Practices is available in either hard copy or electronically at **www.mah.gov.on.ca** under Land Use Planning. A copy of the booklet will be sent to all municipalities and planning boards. Updates may also be downloaded from the Ministry's web site.

Innovative Municipal Land Use Planning Practices is organized by subject area identified in the Table of Contents. There is an introduction at the beginning of each section, followed by municipal case studies. Case studies provide practical and proven examples of how Municipal Plan Review and One Window Provincial Planning Service have been and can be successfully implemented.

They are organized as follows:

- Issue identification
- Background
- Comments
- Lessons Learned
- Contact

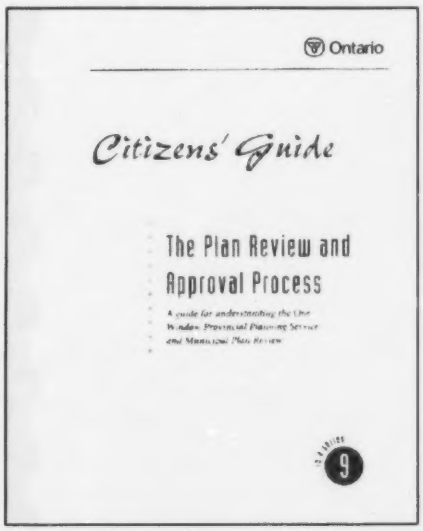
D. Building our collective inventory

The emphasis in *Innovative Municipal Land Use Planning Practices* is on identifying innovative procedures and approaches currently used by municipalities and planning boards to assist them in responsible decision making. Your input is needed. Please share your successful planning practices with your fellow colleagues in the planning community. You may contact the Ministry directly with your suggestions (see phone numbers on page 75) or send us your description using the FAX form provided in the Appendix.

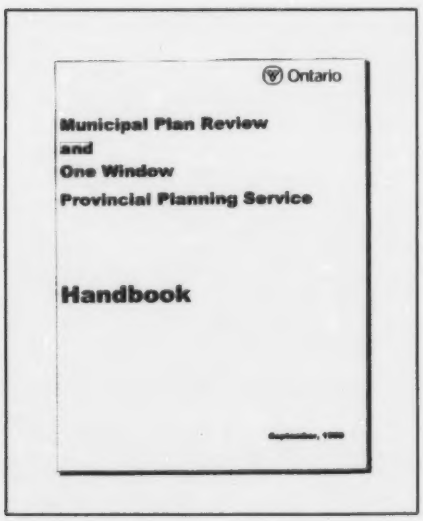
E. Other resources

There are two other resources that describe Municipal Plan Review and One Window Provincial Planning Service:

Citizens' Guide No. 9:
The Plan Review and Approval Process



Handbook for Municipal Plan Review and One Window Provincial Planning Service



Both these documents are available on the Ministry's web site at www.mah.gov.on.ca

2. Municipal Approvals

A. Introduction

B. Official Plans and Amendments

Case Study: Town of Milton Official Plan

C. Subdivisions

Case Study: Subdivision Approval in Lanark County

D. Consents

Case Study: County of Renfrew Delegation of Approval Authority

Municipal Approvals

A. Introduction

The provincial government introduced Municipal Plan Review and the One Window Provincial Planning Service in the mid 1990s.

The province developed these new planning review systems to:

- streamline the planning application and approval process;
- reduce duplication and inefficiency in the planning process;
- give municipalities greater autonomy and responsibility for decision-making; and
- refocus provincial involvement in the planning process away from development applications to policy, where provincial resources can be more effectively utilized.

The goal of Municipal Plan Review is for a municipality to efficiently review and make sound decisions on planning applications. Municipalities with approval authority are empowered to make decisions on local planning applications and are responsible for identifying and protecting provincial interests in the process.

The province can assist a municipality or planning board with its plan review responsibilities in a number of ways, including:

- providing information to review site-specific planning applications;
- providing training for new and existing planning approval authorities regarding the approvals process, legislation and the *Provincial Policy Statement*; and

- collecting and sharing examples of how municipalities and planning boards have developed and implemented streamlined review and approvals processes.

Municipalities, acting as the approval authority, have always assumed some risk when making decisions on planning applications. This risk is not substantially changed by Municipal Plan Review. The municipality is still responsible for making responsible decisions in its review of planning applications.

The goal of One Window Provincial Planning Service is to provide municipalities, planning boards, developers and the public with one-stop access through the Ministry of Municipal Affairs and Housing for provincial planning services.

Establishing one-stop access has resulted in the following:

- provincial input previously provided individually by up to seven ministries is now integrated and provided by the Ministry of Municipal Affairs and Housing;

- where the province remains the approval authority, there is one window for provincial input, review, approvals and appeals to the Ontario Municipal Board (OMB) of planning applications;

- there is an emphasis on early consultation;

- provincial input and comments on development applications submitted to other approval authorities, such as local official plans submitted to regional municipalities and counties, are provided through the Ministry of Municipal Affairs and Housing; and

- other provincial ministries are still available to provide technical support to the Ministry of Municipal Affairs and Housing.

B. Official Plans and Amendments

The approval authority for official plans and amendments is either the county/region or the Ministry of Municipal Affairs and Housing, depending upon the delegation/assignment of approval authority. Where the county/region is the approval authority, it conducts Municipal Plan Review. This includes providing input on draft proposals during the "early consultation" stage, as well as reviewing and making decisions on municipally-adopted official plans and amendments.

Case Study: Town of Milton Official Plan

Issue Identification

The Town of Milton Official Plan was initiated in August 1995 and approved in part by the Region of Halton in December 1997. The remainder of the Plan was approved by the OMB in July 1999. As part of its approval authority function, the Region conducted Municipal Plan Review for the Official Plan.

Background

Key features of the Milton Official Plan approval process:

- Milton's staff were involved in preparing the Region of Halton Official Plan amendment number 8 as a result of the Halton Urban Structure Plan review which provided a basis for growth areas in Milton and elsewhere.
- The Milton Official Plan was prepared in conformity with the Region of Halton Official Plan amendment number 8 (see related case study, page 44).
- The Plan was based on sub-watershed studies in accordance with the Sixteen Mile Creek Watershed Plan.
- The Plan was also based on the phasing of growth identified by the Region's Official Plan.

Comments

1. Integrating preparation of Milton's Official Plan with the comprehensive Halton Urban Structure Review ensured that the plan conformed to the *Provincial Policy Statement* and Regional policies.

2. Notification lists from the Region and the Town were combined to streamline the notification process.

Lessons Learned

- ✓ It is important to consult early in the process with other levels of government (in this case the Region) to resolve issues of phasing, infrastructure and financing requirements.

- ✓ Plan preparation and approval were combined for several major planning documents. A concurrent public participation process for the Regional amendment and for the Town's Official Plan could have confused the public. Mailing lists were consolidated. The process was designed so that a resident could approach either level of government for information on details of the amendments and approval process.

Contact

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C. Subdivisions

Over time, most upper-tier and single-tier municipalities and planning boards will become the approval authority for plans of subdivision. Through Municipal Plan Review, they will identify and protect provincial and municipal interests when they make decisions on proposed plans.

Case Study: Subdivision Approval in Lanark County

Issue Identification

On July 4, 2000 the County of Lanark became the subdivision and condominium approval authority. Instead of hiring additional County staff, two planning consulting firms were contracted to review plans on behalf of the County.

Background

When the County of Lanark decided to request subdivision and condominium approval powers from the province, it also decided to take an innovative approach to implement its new responsibilities. Administration would be separated from plan review. Internal County staff would conduct the former, while outside planning consultants would do the latter.

Here's how it works. The County Planning Coordinator is the "on-staff contact" for applicants. The private planning consultants provide professional and technical review of the subdivisions and prepare a report to a committee of County Council. The committee then makes a recommendation to County Council. The County Chief Administrative Officer gives the certificates of draft plan approval and final approval on behalf of the County.

The County entered into two, two-year agreements with the respective planning firms. The agreements specify that the planning consultants will provide peer review services for a wide range of studies regarding such matters as environmental impact statements, mineral resources, noise, municipal servicing capacity, and servicing options reports.

The agreements set out the cost of each type of technical review depending upon whether the proposed subdivision is simple, moderately complex, or complex.

The consultant does not duplicate any technical review functions provided by the two local Conservation Authorities.

Comments

1. The two planning firms review alternate subdivision applications, unless they have a conflict of interest in the particular application. Having two firms gives the County a back up in the event of such a conflict. It also allows the County to compare services.

Lessons Learned

- ✓ It is important to involve the local municipalities when setting up the subdivision review and approval process at the County level. This helps to get their support and to develop an efficient and effective process. In this case, the local planners also participated in the interview process for the consulting firms.
- ✓ Staff customized all forms and materials to specifically meet the needs of the local area.
- ✓ Having a thorough, well-worded Request For Proposal helped when hiring the consultants and writing the agreements.
- ✓ As was learned in the consent approvals process, be accessible, be open, be honest and dialogue regularly with proponents. They appreciate being kept informed.

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D. Consents

All consent-granting authorities (municipal council or its delegate and planning boards) provide Municipal Plan Review services except where the Ministry of Municipal Affairs and Housing is still the approval authority in parts of Northern Ontario. The province no longer performs site-specific reviews for consents although technical information is available upon request.

Case Study: County of Renfrew Delegation of Approval Authority

Issue Identification

The County of Renfrew has the authority to approve consents in 13 of the 17 local municipalities. This authority has been sub-delegated to an officer of the Corporation (Director of Development and Property) or to a committee of council (Land Division Committee).

Background

Approval authority is split between the Director of Development and Property and the Land Division Committee. It was delegated to staff in 1997 for consents that have regard to the *Provincial Policy Statement*, conform to the official plan and have not received any objections. Staff has the responsibility to resolve any issues that arise. If there is an unresolved issue, the consent is then considered by the Land Division Committee. The Land Division Committee is a committee of Council and is made up of the members of the Development and Property Committee.

In order to ensure that a consent application has regard to the *Provincial Policy Statement* and conforms to the official plan, a pre-consultation process was established. This process assists in identifying any contentious issues which are related to an application.

Comments

1. Members of the Development and Property Committee are provided with a report of the status of consent applications on a regular basis.

2. Municipal Plan Review is conducted through a process that has been approved by Council and which ensures regard to the *Provincial Policy Statement.*

3. Time spent processing consent applications has been dramatically reduced by delegating approval authority to staff for straight forward applications.

4. Consent applications for each municipality are assigned to a specific planner. The planner's familiarity with the municipality assists in streamlining the process.

Lessons Learned

- ✓ Early consultation between the applicant and staff is very important in identifying any contentious issues. This process ensures that the application has regard to the *Provincial Policy Statement* and conforms to the official plan.

- ✓ Staff can issue approvals without a public meeting, negating the need for those involved in the consent application to attend a meeting.

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3. Municipal Alternative Review Models

A. Introduction

B. Enhancing In-House Expertise

Case Study: Municipality of Chatham-Kent out-sourcing the development review function

C. Expertise in Other Agencies or Municipalities

Case Study: Partnership Memorandum between the Region of Durham and Durham Area Conservation Authorities

Case Study: County of Renfrew Municipal Plan Review for consent application in the Township of McNab-Braeside

D. Peer Review

Case Study: Bruce County environmental impact analysis

Case Study: District of Muskoka peer review for hydrogeology and terrain analysis studies, naturalist/ecologist services, and noise impact studies

Case Study: County of Renfrew peer review of technical studies for proposed plans of subdivision

E. Municipal Tendering of the Technical Report

Case Study: District of Muskoka - Municipally directed studies

F. Advisory Group to Council

Case Study: Region of Waterloo Ecological and Environmental Advisory Committee

Municipal Alternative Review Models

A. Introduction

Municipalities and planning boards assigned or delegated land use planning approval authority are accountable for protecting provincial policy interests as set out in the *Provincial Policy Statement* and for ensuring conformity with their official plans.

Where the municipality or planning board is the approval authority, it must ensure that it has the technical expertise and support to carry out its plan review and approval responsibilities.

The approval authority is expected to have the ability to:

- identify the need for any necessary studies;
- set and clear conditions for approval; and
- obtain technical expertise to review technical studies, as necessary.

Municipalities and planning boards have developed several methods of reviewing applications and related studies to ensure subsequent decisions are appropriate, have regard to the *Provincial Policy Statement* and conform to their official plan. Some municipalities and planning boards utilize in-house technical experts for their plan review and approval while others may not have the in-house resources to do so.

Alternative review models currently in use by municipalities and planning boards to carry out their plan review and approval function include:

- enhancing in-house expertise;
- expertise in other agencies or municipalities;
- peer review;
- municipal tendering of the technical report; and
- advisory group to council.

Each of the models is discussed in more detail on the following pages. Case studies which detail how some municipal approval authorities have implemented these models are also included.

If you are using any of these models or a different approach, please let us know so that we can build our collective inventory of innovative municipal planning practices.

B. Enhancing In-House Expertise

In an area with significant development activity, a requirement for a specific study to accompany an application may become standard procedure. In such cases, municipalities may benefit from augmenting their in-house expertise either by training existing staff or hiring in-house experts.

For example, if several municipalities expressed a need, the Ministry of Natural Resources would provide in-depth training to municipal planning staff on environmental impact studies. This reduces the need for costly consultant studies and/or review. Training provides municipal staff with the skills and knowledge necessary to ensure that their municipal plan review responsibilities are carried out appropriately.

Another good example was seen in Huron and Perth Counties where they shared the services of one professional planner ("planshare"). In this case, the Counties hired a planner with the expertise needed to carry out their planning responsibilities. The advantages of sharing this type of in-house expertise included the timely delivery of projects (due to augmented staff) and cost effectiveness (e.g. payroll, travel expenses, minimum training).

Some municipal approval authorities may decide, however, to supplement staff resources by "contracting out" all or part of the plan review function. The following case study describes how the Municipality of Chatham-Kent out-sources plan review of development applications.

Case Study: Municipality of Chatham-Kent out-sourcing the development review function

Issue Identification

As a result of municipal restructuring on January 1, 1998, the Municipality of Chatham-Kent became the assigned approval authority for plans of subdivision and condominium. In order to ensure the best value in delivering planning services, the municipality issued a "Request For Proposals" (RFP) for development review on all land development applications (e.g. official plan amendments, subdivisions, condominiums, site plans, etc.). As a result of the RFP process, the municipality decided to out-source the entire development review function to a private planning consultant.

Background

The land development approval process is administered and coordinated through the Strategic and Land Use Planning Unit of the municipality. As part of the Planning Unit's business plan approved by council in December 1998, a formal RFP was issued in August 1999 for a development review service provider. All bidders were encouraged to submit new and innovative approaches, procedures and/or technologies that would streamline the process, reduce costs and enhance service delivery. Both the in-house Planning Unit and several external firms submitted bids. The contract was awarded to a private consulting firm whose costs were 30 percent less than costs submitted to deliver the same service internally.

Key components of the land development review and approvals process are as follows:

- The municipality is the initial point of contact for development inquiries. All development applications are reviewed for completeness and the municipality distributes all Notices of Public Meeting and Notices of Decision.

- Municipal planning staff pre-consults with the applicant on all applications and coordinates an in-house technical review to identify all municipal requirements, including servicing capacity as well as servicing feasibility for private septic systems.

- The consultant is responsible for conducting a comprehensive review of the application. This includes everything from identifying all relevant provincial and municipal planning policies, to reviewing both agency and public comments and then preparing a planning report on the application.

- Municipal planning staff review the planning report after which the consultant presents to Council the final report for consideration and approval of official plan amendments, zoning by-law amendments, plans of subdivisions and site plans, or to the Committee of Adjustment for minor variances and consents.

A three-year contract has been entered into between the municipality and the successful bidder.

On-going performance reviews are conducted based on:

- accuracy, timeliness and quality of service;

- reporting and document preparation; and

- ability to develop and maintain an effective working relationship with municipal council and staff, applicants and the public.

Comments

1. The contract start-up date was January 1, 2000. From the municipality's perspective, this service delivery model is very efficient. It was also well received by stakeholders including the development industry, individual applicants and the general public.

Lessons Learned

- ✓ The RFP process provided a "level playing field" for all potential planning service providers, including the opportunity for in-house bids. This open process resulted in the most cost-efficient service delivery model for the municipality.
- ✓ The RFP process forced the municipality to examine its actual costs to provide development review, including direct and indirect overhead.
- ✓ Applicants are ensured a timely approval process because application timelines are a contractual requirement of the consultant.
- ✓ The RFP process has raised the standard of decision-making for alternative service delivery models in Chatham-Kent.

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C. Expertise in Other Agencies or Municipalities

In some cases, municipalities and planning boards may not have the resources or desire to acquire in-house expertise. When this occurs, they may seek land-use planning advice and technical support from other agencies. Receiving expertise from other agencies is effective in ensuring that the provincial interest is considered in the approval of planning applications. The most common agency that is used for its expertise is the local Conservation Authority, wherever one exists.

Case Study: Partnership Memorandum between the Region of Durham and Durham Area Conservation Authorities

Issue Identification

When the Region of Durham took on the Municipal Plan Review function early in 1996, it decided to make use of the existing expertise residing in the five local Conservation Authorities. The Conservation Authorities were already reviewing development applications and providing comments to the Region on natural hazards such as flood potential, erosion, unstable slopes and soils. Now they also address natural heritage, stormwater management, and specific permitting issues.

Background

A Partnership Memorandum was prepared between the Region of Durham and all five local Conservation Authorities. The Memorandum sets out that the Conservation Authorities will provide comments to the Region on the following: natural heritage, natural hazards, and stormwater management, including the need for permits and/or fisheries compensation plans.

The Conservation Authorities are not limited in any way from addressing other issues that may relate to their mandate. The Memorandum also clarifies that fees charged by the Conservation Authorities to recover costs for services rendered under Municipal Plan Review will be recovered directly from development proponents.

Comments

1. Partnership with the Conservation Authorities benefits the Region since it ensures that natural resource issues are considered in the review of development applications.

2. Such an arrangement provides a better local perspective in managing natural heritage issues.

3. Only one agreement, compared to five, was signed between the Region and the Conservation Authorities. The Authorities recognized that they had varying expertise available among themselves to offer services under the agreement. They therefore formed a partnership to share their expertise to deliver planning services to the Region, either by trading services with each other or by importing the expertise from outside sources.

Lessons Learned

- ✓ This arrangement gave the Region and the area municipalities continued access to specialized expertise.

- ✓ The Region can continue to consider the perspective of the area municipalities on natural heritage, stormwater management and natural hazard issues, in addition to the perspective provided by the Conservation Authority.

- ✓ The Partnership Memorandum with the Region results in the five Conservation Authorities sharing specific expertise in a very cost-effective manner. Rather than duplicating expertise, it is pooled.

Contact

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Case Study: County of Renfrew Municipal Plan Review for consent applications in the Township of McNab-Braeside

Issue Identification

McNab-Braeside is a recently amalgamated lower tier rural municipality in the County of Renfrew. McNab-Braeside has consent approval authority. It has an agreement with the County of Renfrew (Planning Division) to provide Municipal Plan Review services on consent applications.

Background

When the County delegated consent approval to McNab-Braeside, it was agreed that the County would conduct Municipal Plan Review for consents on behalf of the municipality.

The Planning Division prepares a report on each consent application received. The report addresses provincial interests, conformity to County and local official plans, and local planning issues. There is an agreement between the upper and lower tier for the County to conduct the review at a cost of $100 per consent application.

McNab-Braeside, as the approval authority, is still completely responsible for all aspects of approval related to consent applications.

Comments

1. By arranging for the services of the Development and Property Department (Planning Division) to conduct Municipal Plan Review for consents, the municipality, as the approval authority, ensures that there is regard for the *Provincial Policy Statement* in the review of consent applications.

Lessons Learned

- ✓ In consent approvals, it is important to ensure that regard is given to the *Provincial Policy Statement*.
- ✓ The approval authority is responsible to conduct Municipal Plan Review; this function can successfully be contracted out to another municipality; in this case, to the upper tier planning authority.

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D. Peer Review

A municipality or planning board may wish to hire an outside consultant to review selected technical reports submitted in support of a development application where there is no in-house expertise available. Some municipal approval authorities retain a consultant to conduct this peer review on an application by application or study by study basis, while other municipalities retain a consulting firm to review all reports of the same type (e.g. all hydrogeological studies or all noise studies).

Case Study: Bruce County environmental impact analysis

Issue Identification

Municipal planning decisions must consider the potential impact of any proposed development on the environment. The following case demonstrates how a municipality, without in-house resources, undertakes the detailed technical review of an environmental impact study and gets the job done by using the peer review model.

Background

Bruce County received an application from an experienced local developer for approval of a "resort-style" residential community located in an environmentally sensitive area. The developer spent three years conducting research to identify the linkages between the natural heritage features of the property and the adjacent area. As in earlier developments, he intended to maintain and promote these natural heritage features in order to market the development to environmentally-aware consumers.

Challenges facing the County were to ensure that a proper technical review of the proposed development was conducted, and to ensure the development had regard to the *Provincial Policy Statement*. As an approval authority responsible for carrying out Municipal Plan Review, Bruce County must ensure that this review was carried out in an effective and thorough manner.

In carrying out its Municipal Plan Review responsibilities, the County determined that, without in-house staff experienced in environmental review of this nature, an external consultant should be retained for peer review of the environmental impact study. The applicant agreed to pay for the cost of the review. The County prepared draft Terms of Reference which were sent to five recognized environmental consultants with a request that they comment on the proposed Terms of Reference and submit proposals to conduct peer review. Upon receipt of the comments and proposals, the County revised the draft Terms of Reference and selected a consultant to undertake the peer review function.

Upon completion of the review, which cost approximately $2,500, feedback was provided to the applicant and appropriate revisions were made to the application.

Comments

1. County Planning staff is still in the process of refining their approach to peer review. The County's policies and procedures will be firmed up as their experience grows.

Lessons Learned

- ✓ Municipalities without staff resources to conduct detailed technical reviews could consider using peer review as required.
- ✓ Peer review can speed up the decision-making process.
- ✓ Costs can be recovered from applicants.
- ✓ With the assistance of outside technical expertise, municipalities are able to ensure that regard is given to the *Provincial Policy Statement*.
- ✓ As municipal experience increases, policies and procedures will evolve and mature.

Contact

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Case Study: District of Muskoka peer review for hydrogeology and terrain analysis studies, naturalist/ecologist services, and noise impact studies

Issue Identification

The District Municipality of Muskoka uses consulting services to conduct peer review of the following types of technical studies submitted by proponents in support of development applications:

- hydrogeological and terrain analyses;
- surface water impact assessment;
- naturalist/ecologist services; and
- noise impact studies.

Background

In order to conduct Municipal Plan Review, the District must ensure that development proposals satisfy legislative and policy requirements for the protection of water quality and quantity, and the impact of noise. Consulting firms are pre-qualified to conduct a peer review of the analyses submitted for selected site-specific development applications, primarily plans of subdivision. The consultant is retained by the municipality at the expense of the applicant. Consultants must be unbiased and provide technical information to the best of their ability. Terms of Reference for technical reviews were prepared by the municipality in consultation with appropriate ministries.

Comments

1. Other regional municipalities have a similar process for hiring external consultants. The main benefit to the municipality of having a roster of qualified consultants is that they are usually readily available and the costs, for the most part, are known upfront.

2. Reports are reviewed in a timely manner, thus adding to a more streamlined approval process.

Lessons Learned

- ✓ In the past, applicants experienced considerable frustration and expense relating to the time taken to review studies such as hydrogeological reports. Peer review can result in more expeditious review of a report.

- ✓ Some applicants prefer to prepare their own report prior to the submission of their proposal, rather than pursuing a municipally directed study. These reports are subject to peer review.

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Case Study: County of Renfrew peer review of technical studies for proposed plans of subdivision

Background

Renfrew County has instituted, as an integral part of its subdivision approval procedures, a peer review process for technical studies. One consulting firm has been contracted by the County to conduct all peer reviews.

The process in hiring and using the consultant's services was as follows:

- the County issued a Request For Proposals to several firms which could potentially provide peer review services on technical studies submitted by appiicants in support of proposed plans of subdivision;
- the County hired one consulting firm to conduct peer reviews. The planning and engineering firm selected had the expertise to perform the majority of tasks identified. Subcontracting may be necessary for only one type of study and must be approved by the County;
- cost of peer review is predetermined with an upside limit based on the size of the proposal. For example, cost could be based on three sizes of proposal: (i) Basic - up to 5 lots (ii) Moderate - 6 to 20 lots, and (iii) Large - greater than 20 lots;
- consultant provides a guaranteed time frame for response (e.g. 10 to 30 days);
- through early consultation with the County, the applicant knows which studies are needed; and
- the County accepts a retainer from the applicant of double the cost of peer review. When the review is complete, the applicant gets back any unspent funds.

Comments

1. The peer review process has been accepted by the development community because there is a definite and reasonable time frame, the process is straight forward, and there is strict accounting procedures.

Lessons Learned

It is important to set out the following requirements at the beginning of the process:

- ✓ Cost of peer review.
- ✓ Collection of an upfront retainer from the applicant.
- ✓ Studies required.
- ✓ Acceptable time frame for response by consultant.

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E. Municipal Tendering of the Technical Report

Municipal tendering of the technical report is a technique that has been used by several municipalities. In this model, the municipality requires that the applicant pay for a report to be prepared for the municipality. This is different than the usual process where the applicant hires a consultant to prepare a technical report in support of a planning application. Since the municipality hires the consultant, and sets the Terms of Reference, the report does not need to be reviewed by a third party expert. For example, this model has been useful in such cases where an environmental impact study or a growth management study is required to support a planning application.

Case Study: District of Muskoka - Municipally directed studies

Issue Identification

The District determined that in some circumstances, studies should be municipally directed (i.e. a study commissioned by the District at the applicant's request and expense). With this approach, only one report is required, thereby reducing the cost to the applicant and resulting in an independent, objective opinion.

Background

Studies overseen by the District would generally result from an official plan amendment or a subdivision application.

Municipally directed studies may be conducted to address the following issues:

- hydrogeological assessment;
- surface water quality;
- fish habitat assessment;
- noise;
- environmental impact statement to determine impact on a provincially significant wetland;

- impact assessment for a natural heritage area; and
- impact on rare, threatened, or endangered species.

Consultants are pre-qualified for their expertise in these areas, then asked to submit a proposal to undertake a municipally directed study. The consultant is retained by the municipality at the expense of the applicant.

Comments

1. The benefit to the municipality is having a roster of pre-qualified consultants who are readily available.
2. A single report is prepared, and no peer review is necessary, leading to a more streamlined approval process.
3. This option is initiated at the applicant's request. A peer review approach is still available as an alternative.

Lessons Learned

- ✓ Financial savings are achieved through the need for only one report.
- ✓ Municipally directed studies are better received by the community and likely to be less expensive than other studies.

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F. Advisory Group to Council

An advisory group to council can be an excellent vehicle to inform decision makers on planning applications. Advisory group members are appointed based on their technical expertise from varying disciplinary backgrounds. An advisory group to council can increase fairness and impartial decision-making in the planning process, while fostering better working relationships between municipal staff and council.

Case Study: Region of Waterloo Ecological and Environmental Advisory Committee

Issue Identification

In 1973 the Region of Waterloo established an Ecological and Environmental Advisory Committee (EEAC) to assist Regional Council and staff with natural heritage matters. The Committee consists of one member of Council and 15 citizen volunteers with a wide variety of relevant environmental expertise.

EEAC's prime responsibility is to scope and subsequently review Environmental Impact Statements (EIS) and Environmental Assessments (EAs) submitted in support of development applications and infrastructure projects with significant natural heritage implications.

Background

When a development application is proposed, Regional staff determine whether it could potentially affect an Environmentally Sensitive Policy Area (ESPA) designated by the Region. If so, an EIS is required to evaluate the potential impacts of the proposal and determine how to avoid or minimize them.

After consulting with the proponent and visiting the site, staff request EEAC to "scope" the required study to identify specific issues or areas of concern. This serves as the Terms of Reference for the EIS which is subsequently submitted as part of the complete application.

A sub-committee of two to six members, struck when EEAC initially scoped the EIS, reviews the study and conducts a site visit, accompanied by the proponent. The sub-committee then prepares a detailed report with recommendations for consideration by the full Committee. EEAC's recommendations are implemented through the planning approval process. Typically, review of a well prepared EIS can be completed within one month.

Comments

1. EEAC is an expert advisory committee providing technical recommendations to be implemented through the planning approval process. It is not an approval authority. If a recommendation is controversial, it is usually submitted to the Planning and Culture Committee and Council for a decision.

2. EEAC members are appointed based on their technical expertise. Members are required to attend meetings in the field and a monthly meeting with council. Members represent a wide range of relevant environmental disciplines including biologists/ecologists, hydro-geologists, water resources engineers, planners, arborists/foresters, etc.

3. Meetings are regularly scheduled and open to the public.

4. Proponents are encouraged to respond to the sub-committee report at EEAC meetings and enter into an in-depth technical discussion with the Committee. Concerned members of the public are also welcome to form delegations on technical matters before the Committee.

5. The process works most efficiently when planning staff support and complement the work of the Committee. Staff duties include pre-consultation with applicants and identifying environmental issues to be addressed in the EIS prior to the submission of applications, arranging site visits/meetings, and liaising between sub-committees and the applicant.

6. EIS review occurs concurrently with circulation of the complete development application to other agencies, and is usually completed within one to two months. Delays occur only when proposals are problematic or when EIS's are incomplete or deficient in some important respect.

Lessons Learned

- ✓ EEAC has a strong record of fairness and technical competence.
- ✓ EEAC's review of an EIS can take as little as one month if: environmental issues to be addressed in the EIS are scoped prior to submission of applications; and the EIS is prepared satisfactorily.
- ✓ EEAC's effectiveness and efficiency is ensured through the ongoing commitment of knowledgeable support staff.
- ✓ EEAC's advice is usually implemented through the Region's regular development approvals process.

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4. Working with the One Window Provincial Planning Service

A. Plan Input, Review and Approval

Case Study: Regional Municipality of Ottawa-Carleton Official Plan

Case Study: Town of Sioux Lookout Official Plan

Case Study: Region of Halton Urban Structure Plan (Official Plan Amendment #8)

B. Appeals

Case Study: Residential development near a stationary noise source in the Town of Halton Hills

Case Study: Minimum Distance Separation (MDS) Formula in Perth County

Working with the One Window Provincial Planning Service

A. Plan Input, Review and Approval

Through the One Window Provincial Planning Service, the Ministry of Municipal Affairs and Housing provides municipalities, planning boards, developers and the public with one-stop access to provincial planning services.

Where the ministry is the approval authority, a One Window Planning Service for provincial input, review, decision-making and appeal of municipal planning applications is in place. As well, in cases where municipalities/planning boards with approval authority request provincial assistance, it is provided through the ministry's One Window Service. Other provincial ministries are available to provide technical support, such as interpreting provincial resource mapping where required.

This One Window Approach streamlines and co-ordinates input that was previously provided individually by the provincial ministries of Municipal Affairs and Housing; Environment; Natural Resources; Transportation; Citizenship, Culture and Recreation; Agriculture, Food and Rural Affairs; and Northern Development and Mines.

Engaging the One Window Provincial Planning Service upfront in the initial preparation of an official plan or amendment can result in an efficient and timely review and decision by the ministry where it is the approval authority. Examples of this are discussed in the following three case studies.

Case Study: Region of Ottawa-Carleton Official Plan

Issue Identification

The former Regional Municipality of Ottawa-Carleton (RMOC) received approval for its Official Plan under the new provisions of the *Planning Act* (Bill 20). The effectiveness of the One Window Provincial Planning Service during the plan input, review and approval stages is illustrated in this example.

Background

Process and time lines for the then Ottawa-Carleton's Official Plan were as follows:

April 1995	"Core" team was established to facilitate dialogue during plan development between Ottawa-Carleton, Ministry of Municipal Affairs and Housing and partner ministries.
February 1997	Ottawa-Carleton released draft Official Plan for public review and comment. Ministry of Municipal Affairs and Housing and other provincial staff attended initial briefing.
April 1997	Ministry of Municipal Affairs and Housing provided Provincial One Window comments following consultation with partner ministries.
July 1997	Adoption of Official Plan by Regional Council.
August 1997	Staff from Ottawa-Carleton, Ministry of Municipal Affairs and Housing and affected agencies met to establish a 90-day work program for reviewing and issuing a decision on the Official Plan.
September 1997	Regular contact between Ministry of Municipal Affairs and Housing and partner ministries to discuss and resolve provincial issues.

Sept./Oct. 1997	Regular discussions (e.g. via telephone, one meeting in September, and regular exchange of documents through faxes) to resolve issues and negotiate modifications. Modifications were agreed to in stages. Intense working meetings between Ottawa-Carleton and Ministry of Municipal Affairs and Housing staff to finalize modifications during week prior to approval.
Oct. 21, 1997	Official Plan approved (with modifications) by Ministry of Municipal Affairs and Housing within the legislative 90-day time frame.

Comments

1. The *Provincial Policy Statement* focused ministry review of the official plan and third party issues.

2. Establishing a provincial team in the early stages of plan preparation helped staff become familiar with the Official Plan, once adopted. This form of early consultation also allowed the Ministry of Municipal Affairs and Housing to provide comments at appropriate intervals.

3. A successful conflict resolution role was played by the Ministry of Municipal Affairs and Housing and partner ministries (e.g. Ministries of Natural Resources and Agriculture, Food and Rural Affairs). Major issues related to the Mineral Aggregate Resource policies were resolved. In addition, the Land Evaluation and Area Review resulted in a local definition for prime agricultural lands.

4. The Ministry of Municipal Affairs and Housing's 90-day decision was possible due to the Region's involvement in early and meaningful consultation as part of the One Window Provincial Planning Service.

Lessons Learned

- ✓ Identifying key staff contacts at the Ministry of Municipal Affairs and Housing and the former RMOC, who were empowered to negotiate modifications, helped to resolve many issues.
- ✓ Open and regular communication (almost daily dialogue) among staff was critical in resolving issues.
- ✓ The provincial-regional relationship was viewed as a partnership in working towards approval of the official plan.
- ✓ Establishing a 90-day work program, which identified responsibilities and set time targets, brought discipline to the approval process.
- ✓ Ready accessibility of key contacts with partner ministries provided significant support during issue resolution and reinforced support for One Window Provincial Planning Service relationships.
- ✓ The availability of Ministry of Municipal Affairs and Housing and regional staff to answer questions from the public during the review, approval and appeal periods helped to focus some of the appeals.
- ✓ With the change from a referral to an appeal environment, potential appellants should be encouraged to voice their concerns prior to the Notice of Approval Decision. This gives the Ministry of Municipal Affairs and Housing and the municipality an opportunity to resolve issues and avoid unnecessary appeals to the OMB.

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Case Study: Town of Sioux Lookout Official Plan

Issue Identification

When the Town of Sioux Lookout prepared its new Official Plan, the province offered support through its One Window Provincial Planning Service.

Background

Sioux Lookout is a single tier municipality which became the subdivision/condominium and consent approval authority on January 1, 1998. Before then, planning issues were handled by a planning board which had jurisdiction over the former Town of Sioux Lookout and six surrounding unincorporated townships. Currently, Sioux Lookout has a Planning Advisory Committee consisting of two councillors and five appointed residents.

With the assistance of a planning consultant, the Town began developing a new official plan in the fall of 1998. Three critical components were built into the Official Plan preparation process: (1) early consultation; (2) background data, information, and analysis; and (3) approval.

As the Ministry of Municipal Affairs and Housing is the approval authority and consultation with the approval authority prior to adoption is a requirement under section 17(15) of the *Planning Act,* the Ministry was consulted. Through its One Window Provincial Planning Service, the Ministry, in turn, coordinated the participation of its six partner ministries. Together, the ministries provided Sioux Lookout with all available background information and mapping. By late 1999, the Town prepared a third and final draft for review and comment. In November 2000 Council adopted the Plan and forwarded it to the Ministry of Municipal Affairs and Housing for approval.

Comments

1. Through the One Window Provincial Planning Service, the Ministry of Municipal Affairs and Housing developed an integrated provincial position, with input from partner ministries.

2. The Town's consultant found that having data and information from the ministries in one location assisted in the initial preparation of the plan.

Lessons Learned

- ✓ It is important to select a good consultant. The consultant must fully understand the implications of the *Provincial Policy Statement,* the importance of early consultation and how the One Window Provincial Planning Service is implemented.

- ✓ Early consultation with the Ministry of Municipal Affairs and Housing is critical as it helps to determine appropriate directions for the Official Plan. Similarly, other agencies such as the Health Unit need to be consulted early in the process.

- ✓ Early consultation works well for all types of development applications. To this end, Sioux Lookout has prepared guidelines for potential applicants which outline the early consultation process as well as focus on issues detailed in the Official Plan and the *Provincial Policy Statement.* Applications are not accepted until the proponent has reviewed the guidelines and met with the Town.

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Case Study: Region of Halton Urban Structure Plan (Official Plan Amendment #8)

Issue Identification

The *Planning Act* provides for the Minister of Municipal Affairs and Housing to exempt official plans and amendments from Ministerial approval. The *Planning Act* also allows the Minister to authorize other approval authorities to exempt plans and amendments subject to their approval. Amendment #8 to the Region of Halton Official Plan was exempt from formal approval by the Ministry of Municipal Affairs and Housing. However, the Ministry of Municipal Affairs and Housing remained the approval authority under the *Planning Act* and, as such, played a major role through the One Window Provincial Planning Service, leading to the adoption of Amendment #8 by the Region.

Background

The Halton Urban Structure Review (HUSR) took place between 1991 and 1994. As a result of the HUSR, the Halton Urban Structure Plan (HUSP) was adopted by Regional Council in June 1994, as the basis for preparing amendments to the Regional and local official plans. Amendments would not only expand the urban areas of Milton and Oakville, but also provide an employment opportunity area along Highway 401 in Halton Hills. In carrying out this comprehensive study, the Region examined a broad range of growth issues, and combined the statutory requirements under the *Planning Act* and the *Environmental Assessment Act*. Amendment #8 incorporates the HUSP into the Regional Official Plan.

Public and agency consultation was a major component throughout the process (1994-99). Full public consultation while preparing amendments and supporting documentation provided for full public disclosure of all information related to the amendments.

Comments

1. The review process was designed to integrate the five-year planning process with the Environmental Assessment process, the Watershed Planning process, Infrastructure Review, and the Financial and Implementation Plan.

2. An advantage to the One Window Provincial Planning Service was having the same person at the province acting as coordinator throughout the review process. This person was also responsible for other planning applications in the area, such as amendments to the Parkway Belt West Plan.

3. The integrated processes ensured that work was not duplicated, and the entire planning exercise was transparent, logical and seamless from a public perspective.

Lessons Learned

- ✓ Participants recognized the importance of the Region's roles in resolving major issues, such as phasing, infrastructure requirements and financing.

- ✓ Planning staff should go beyond the minimum legislative requirements with respect to public consultation.

- ✓ Staff found it useful to always have appropriate people available from each level of government at public meetings to answer questions.

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B. Appeals

The Ministry of Municipal Affairs and Housing is the only provincial ministry that can launch appeals to the OMB. When the Ministry of Municipal Affairs and Housing launches an appeal of a municipal decision, the process is coordinated among other land use planning ministries to ensure that there is one integrated provincial policy position presented to the OMB.

There are several ways in which the province can become involved in an OMB hearing.

The province may:

- be required to defend its own decision, as the approval authority, in the event that its decision is appealed;
- appeal or otherwise participate before the OMB to protect a provincial interest (e.g. an appeal of a local decision);
- seek to be added as a party to an appeal; and
- assist a municipality when the municipality's decision, as approval authority, is appealed to the OMB.

Case Study: Residential development near a stationary noise source in the Town of Halton Hills

Issue Identification

This case study deals with a proposed apartment building on a lot in a plan of subdivision near a stationary noise source.

The municipal approval authorities' roles in this case were as follows:

- the Region of Halton was the subdivision approval authority and it conducted Municipal Plan Review to identify and protect provincial as well as municipal interests; and
- the Town of Halton Hills made the decision on the related Zoning By-law amendment.

The Ministry of Municipal Affairs and Housing has delegated its approval authority function for plan of subdivision and condominium to the Region of Halton. Zoning approval has always been a local responsibility. However, the One Window Provincial Planning Service is available to assist municipal approval authorities in protecting provincial interests. Through the Ministry of Municipal Affairs and Housing, the lead ministry in the One Window Provincial Planning Service, the Ministry of Environment assisted in reviewing a noise report prepared to assess potential impact of a stationary noise source in the Town of Halton Hills.

Background

The plan of subdivision was draft approved by the Region with a condition that the owner of the stationary noise source implement noise control measures, to be paid by the developer, to the satisfaction of the Region. The owner was also required to apply to the Ministry of Environment for a Certificate of Approval for the proposed noise control measures.

Final plan approval would be granted by the Region for the affected blocks only after an audit had been completed to determine compliance with established guidelines.

The owner appealed some of the conditions of draft approval, including the condition regarding noise mitigation, to the OMB. While preparing for the hearing, the Region needed technical assistance from the Ministry of Environment to give evidence on the ministry's guideline. The Region contacted the Ministry of Municipal Affairs and Housing appeals coordinator regarding their need for a provincial witness who could provide technical help towards the Region's case.

The Ministry facilitated meetings between the Regional solicitor and the appropriate Ministry of Environment staff. As a result of the province's help, the Region and the developer found middle ground on the noise mitigation issue and negotiated a settlement. The agreement secured financing for noise mitigation measures and paved the way for an application for a Certificate of Approval, without the need for an OMB hearing.

Comments

1. The Ministry of Municipal Affairs and Housing helped the Region tap into the Ministry of Environment's technical expertise.

2. The Ministry of Environment noise expert, who was not a trained land use planner, appreciated the guidance and assistance from the Ministry of Municipal Affairs and Housing regarding the OMB appeal.

Lessons Learned

- ✓ The Region of Halton, as the subdivision approval authority, correctly identified land use compatibility as an issue and requested a study to assess the impact from a stationary noise source.

- ✓ Since the developer and the Region could not agree on appropriate noise mitigation measures based upon the study, the Region asked for assistance from the Ministry of Municipal Affairs and Housing as the lead ministry for the One Window Provincial Planning Service.

- ✓ In some cases, a neutral third party's technical expertise can help the other parties resolve their own conflicts without the need for a full OMB hearing.

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Case Study: Minimum Distance Separation (MDS) formula in Perth County

Issue Identification

The County of Perth adopted its first Official Plan to improve and streamline the planning process in the County and to prepare for its approval responsibilities (including Municipal Plan Review) with respect to plans of subdivision and condominium.

Background

Following the Ministry of Municipal Affairs and Housing's approval of the County Official Plan, there were seven appeals of various parts of the Plan. Some of the appeals did not relate to provincial interests and some were quickly addressed through negotiations.

The County requested provincial assistance, through the One Window Provincial Planning Service, on two matters:

- a proposed recreational trailer park on agricultural lands; and
- an application of the 'minimum distance separation` (MDS) formula in an area occupied by members of a religious community.

The appeal was against policies relating to additional farm residences, the MDS formula, certain cultural heritage policies, and school and church location issues. A key part of the negotiation process was to review the MDS policies in relation to properties in the religious community. This involved field work by the Ministry of Agriculture, Food and Rural Affairs and the Ministry of Municipal Affairs and Housing staff. A mapping exercise demonstrated that the MDS area would not restrict development to the extent anticipated by the religious community. All concerns of the community were subsequently addressed through negotiations.

The trailer park proposal was taken to an OMB hearing. Following evidence from the Conservation Authority that the area was a wetland, the proponent asked for an adjournment sine die to assess the potential for negative environmental impacts. The OMB hearing regarding the trailer park is still pending. The County anticipates on-going co-operation with provincial staff regarding other matters of provincial interests relating to the subject property.

Comments

1. Under the One Window Approach, the Ministry of Municipal Affairs and Housing and the Ministry of Agriculture, Food and Rural Affairs worked together with the County to provide key information which led to the resolution of a potentially difficult policy conflict.

Lessons learned

- ✓ Perth County recognized prime agricultural areas as a provincial interest that required protection.
- ✓ The County was committed to defending all of its Official Plan policies. It called upon the province to provide assistance with respect to two of seven appeals.
- ✓ The province, through its One Window Provincial Planning Service, was able to put resources towards imaginative solutions that assisted the County in its negotiations.

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5. Other Ideas and Approaches

A. Archaeological and Cultural Heritage Resources

Case Study: City of London Archaeological Master Plan

Case Study: Town of Caledon Archaeological Assessment Standards

Case Study: City of North Bay Public Archaeological Program

B. Assessing New Lots Proposed For Development with Small On-lot Sewage (Septic Systems)

Other Ideas and Approaches

A. Archaeological and Cultural Heritage Resources

The *Provincial Policy Statement* requires preservation of significant archaeological resources and cultural heritage landscapes. Some municipalities have developed innovative approaches to maintain and protect this provincial interest. Examples include the preparation of an Archaeological Master Plan in the City of London, Municipal Archaeological Assessment Standards for studies conducted by consultants in the Town of Caledon, and an Archaeological Program to increase public awareness in the City of North Bay. Each is described in more detail below.

Case Study: City of London Archaeological Master Plan

The City of London, as part of its comprehensive "Vision '96' Planning Program," prepared an Archaeological Master Plan to serve as a guideline for the new official plan. The Master Plan provides specific, council-approved directions with regard to archaeology for preparing and reviewing development proposals, identifying conditions of development approval, and planning improvements to public services and facilities.

Issue Identification

The City's Archaeological Master Plan will ensure the identification, evaluation and conservation of archaeological resources through effective long-range planning. The Plan is designed to effectively manage the City's archaeological heritage resources and streamline the development plan review process.

Background

The Archaeological Master Plan is intended to:

- inventory all known and suspected archaeological sites;
- inventory all areas assessed for archaeological concerns;
- develop an archaeological predictive model to be employed by non-archaeological staff of the City of London planning department. The model will determine if a proposed development area subject to an official plan or zoning by-law amendment and/or plan of subdivision requires an archaeological field assessment;
- develop protocols and procedures to facilitate early recognition of sites and areas with archaeological potential by members of the development community; and
- develop appropriate procedures to ensure the implementation and maintenance of the Master Plan.

Development of an Archaeological Potential Model was the primary goal of the Master Plan. Detailed archaeological potential mapping was generated through an examination of a range of biophysical, cultural and historical factors, any or all of which may have influenced past patterns of land use. The goal of this exercise was to identify parameters which could be used to restrict the area of the City requiring actual field examination without compromising valuable archaeological resources.

Comments

1. Using the Archaeological Potential Model, it was determined that approximately 45 percent of the City has high to moderate potential for the recovery of archaeological resources.
2. Using the Archaeological Potential Model, staff members with no archaeological expertise will be able to make a simple yes/no determination of whether a development property requires an archaeological field assessment.

3. The Archeological Master Plan process also involved the creation of a series of procedures and protocols designed to enhance the protection of archaeological resources while expediting the development plan review process.

4. Development proponents will no longer need to wait for the submission of an application in order to ascertain if an archaeological assessment will be required for their property. They can easily be made aware of their obligations months or years in advance.

Lessons Learned

✓ Procedures have been established which will allow members of the development community to access the City of London Archaeological Potential Mapping and Sites database. This will allow developers to plan ahead, protecting sites and reducing last minute delays and expenditures.

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Case Study: Town of Caledon Archaeological Assessment Standards

Issue Identification

The Town of Caledon has prepared Archaeological Assessment Standards to guide preparation of studies by consultants in order to fulfill the Town and provincial requirements.

Background

Standards used by the Town of Caledon are based on the 1993 Archaeological Assessment Draft Technical Guidelines from the Ministry of Tourism, Culture and Recreation (MTCR). These outline minimal requirements for an archaeological survey for subdivision assessments.

Various stages identified by the Town are:

- Stage 1 represents the background phase of an assessment;
- Stage 2 is the field examination (either surface-survey or test pitting);
- Stage 3 will occur only when archaeological artifacts are encountered during a survey, requiring the site to be delineated and evaluated; and
- Stage 4 represents site excavation following development of a mitigation strategy.

Stages 1, 2, and where applicable 3, represent those activities normally conducted prior to producing an assessment report. In practice, Stages 2 and 3 will normally occur during the same field assessment. Stage 4 is reserved for site excavation and occurs after the original assessment is completed. Stage 4 mitigation strategy will normally be defined by the results and recommendations of the assessment report along with discussions between the archaeological consultant, property owner/developer, MTCR staff and the Town.

Comments

1. To undertake field work, it is necessary for the consultant to have a valid archaeological consulting licence from MTCR.

2. Early consultation with the municipal government is strongly recommended. For example, it is possible for the municipality to provide additional local information that may not otherwise be known.

3. Historically, archaeological assessments have been a responsibility of the Clerk's Department. As a result of recent internal reorganization, heritage resource protection has become a responsibility of the Planning Department. Reorganization has facilitated the inclusion of heritage resource issues in the Town's Municipal Plan Review responsibilities.

Lessons Learned

- ✓ Early consultation is very helpful in the assessment process.
- ✓ Municipal Archaeological Assessment Standards assist the consulting industry to prepare reports that are satisfactory to the municipality.
- ✓ Municipal Archaeological Assessment Standards allow for on-site decisions, thereby expediting the approval process.

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Case Study: City of North Bay Public Archaeological Program

Issue Identification

The City of North Bay is contemplating development of a major, regional tourist attraction on its waterfront, which would include a new facility capitalizing on the unique geographic history of North Bay. A component of this development is expected to relate to the Lavase River archaeological dig, an important archaeological site which was the original location of Laronde House, an active fur trading centre known locally as Fort Laronde.

Background

A team of archaeologists was commissioned to investigate the site of the old Fort. The intent was to portray the history of the area by the removal, documentation, preservation and permanent public display of the artifacts within the proposed tourist attraction.

A program for retrieving the artifacts was developed.

The project's main goals were to:

- protect provincial and municipal interests in cultural heritage and archaeological resources;
- allow for an appropriate search of the site, while maintaining the heritage integrity of the site;
- gain a better understanding of the cultural history of the area; and
- involve the public in a supportive manner.

Working with Human Resources Development Canada, the City had a mandate to provide an educational public dig. During excavation which took four years, the City operated a public open house on the site. Members of the general public, residents, schools and tourists were encouraged to participate in the dig. The dig was supervised at all times. Walking tours of the site were also available.

Comments

1. The public participation program was extremely successful. The public responded in a very positive way and many visited and participated in the dig.

2. More than 10,000 artifacts were retrieved and will be on display when Passage North opens.

3. At the outset, the City determined that consideration for the cultural heritage and archaeological resources was the most important component of developing the site.

Lessons Learned

✓ Development of the site was a critical and sensitive issue for the public. By acknowledging archaeological importance from the outset, Council was able to proceed on a course of action that would provide information necessary to make a responsible land use decision, while working with the public to gain their support.

✓ Continuing public support throughout the planning and development of the La Vase River Project was essential to the protection of the archaeological resources on the site.

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B. Assessing New Lots Proposed For Development with Small On-lot Sewage (Septic Systems)

Introduction

Based upon collective provincial and municipal experiences, this section provides some ideas and approaches for planning approval authorities when reviewing and making decisions on planning applications which may be serviced by small on-site septic systems. Small septic systems are defined as those with less than or equal to 10,000 litres per day. Municipalities and planning boards may also find it useful to seek comments from the local agency responsible for enforcing provisions of the Ontario Building Code related to septic systems, including Health Units, Municipal Building Departments or Conservation Authorities.

When reviewing a development application, information provided by the proponent is relied upon to make a decision about whether to approve, approve with conditions, or deny the application. Onus is on the applicant or proponent to provide this information, technical or otherwise.
Not all applications will require the same level of technical analysis, and it will be up to the approval authority to clearly state its requirements. Applicants for planning approvals may require on-site sewage systems with a capacity in excess of 10,000 litres per day. Such applications may require additional or alternative information, particularly because of the need for system approvals from the Ministry of Environment.

A key objective in assessing an application involving a septic system(s) is to protect groundwater resources. Studies may be required to justify development on septic systems depending on specific site circumstances. One of the first steps in the process (particularly for a plan of subdivision) is considering a servicing options analysis and/or relevant official plan policies which take into account the *Provincial Policy Statement's* hierarchy of servicing.

In most cases, these studies/policies will justify the proposed method of servicing and provide guidance on the requirement for technical analysis to determine site suitability, number of lots, lot sizes, etc.

This information is important not only in relation to proposed development which will rely upon conventional leaching bed septic systems, but also to applications which may rely upon new septic system technologies, for example, shallow buried trenches which require less area on a lot than would a more traditional septic system.

New Lots - Assessment of Applications

Depending on the scope and nature of the application, there are several issues which need to be considered when assessing development applications involving on-site sewage disposal.

In addition to physical characteristics of the site (discussed below), hydrogeology will be a key criterion to take into account when reviewing planning applications involving on-site sewage subsurface disposal. The Ministry of Environment's "Technical Guideline for Individual On-site Sewage Systems: Water Quality Impact Assessment" describes a three-step approach - (i) lot size considerations; (ii) system isolation considerations; and (iii) contaminant attenuation considerations - to determine suitability for septic systems according to impacts on groundwater resources. This evaluation can generally be used for applications involving five or more lots. One of the significant questions to be addressed as part of this analysis deals with nitrate concentrations in groundwater and the impact of the development on these concentrations.

Planning approval authorities often require the applicant to provide supporting information in order to make an informed decision. Many approval authorities incorporate their information needs right into the application form.

The following is a list of factors frequently taken into consideration:

(a) Suitability of individual lot for on-site sewage disposal system
(b) Suitable Area
(c) Raised Septic System
(d) Spare or Reserve Area
(e) Designated Area
(f) Minimum Lot Size
(g) Major Land Re-grading

(a) Suitability of individual lot for on-site sewage disposal system

The following checklist may be used to assess lot suitability:

1. **Soil characteristics and depth of soil**
   - texture, structure, consistency, density, absorption capacity or permeability and the availability of native soil of appropriate quantity (depth and coverage) and quality.

2. **Prevalence of rock**
   - type (channeled or fissured vs. solid), lot coverage and depth.

3. **Maximum elevation of the groundwater table**
   - distance between the bottom of an absorption trench or the surface of a filter bed and the elevation of the seasonally high ground water table.

4. **Surface drainage and flooding potential**
   - impacts associated with surface run-off from on and off-site areas and the possibilities for diverting such run-off.

5. **Topography, particularly the degree of slope**
   - soil conditions in and around a sewage system should be examined for stability as well as the location and orientation of sewage systems on sloping sites.

6. **Ontario Building Code (OBC) standards**
   - conformity with clearance distances, design flows, loading rate impacts on system sizes, length of distribution pipe, acceptable soil conditions, etc.

The amount of information and type of analysis varies depending on the scope and nature of the proposed development, e.g., severance applications creating one additional lot may not necessitate the same level of detail as would a plan of subdivision. However, even where individual lots are created through consent, it may be prudent to consider the cumulative impacts of multiple severances over time.

(b) Suitable Area

The proposal should set out lot size(s) and indicate whether there is adequate area suitable on the lot in its natural state for sub-surface sewage disposal. Alternatively, the proposal should state whether the lot could be made suitable for a leaching bed by reasonable improvements such as leveling, adding fill, etc. The term "reasonable improvements" implies that an improvable area exists. Except as noted in (g) on page 68, lots on which no such area exists, and where a septic system could only be constructed by extensive work to reshape the lot, should be considered unsuitable.

Planning approval authorities also evaluate whether the proposed area is generally within the scope set out in the Ontario Building Code (generally, the amount of cut or fill required to prepare the area for leaching bed construction should not be extensive).

Finally, if construction of the septic system will have an adverse impact on the property or on adjoining properties, the approval authority will need to be apprised.

One Approach in the North:

The North Bay-Mattawa Conservation Authority has established procedures to provide comments on consents and lot additions applications. The authority has created its own application form which requires background information from the applicant, including size and location of severed and retained lot, and the intended lot use. Based on this information and the results of a site visit by a qualified septic inspector, the authority will, on a fee for service basis, provide comments to the applicant and/or approval authority. The authority may not require a site inspection where the proposed lot is greater than 10 acres (4 hectares).

Comments recommending approval from the authority are based on several key requirements:

- for vacant lots or lots without an existing septic system, each severed/retained lot must be able to accommodate two leaching bed systems based on a three bedroom non-luxury dwelling serviced by a 3600 litre tank and 80 metres of distribution pipe, including a 15 metre mantle area in the direction of site drainage;
- for lots containing an existing septic system, a lot must contain space for a reserve area for a leaching bed system, including a 15 metre mantle in the direction of drainage; and
- the achievement of minimum setbacks for lot lines, on-site and off-site wells, dwellings and other structures and watercourses (e.g., lakes and rivers).

In the case of plans of subdivision, the authority also requires copies of any bio-physical studies to be submitted along with the application form.

Benefits of this approach are:

- evaluation/required information is based on the complexity of the proposed development;
- certainty for development applicants about relevant requirements;
- clear accountability for who does what in the process; and
- emphasis on both physical and hydrogeological factors at the site.

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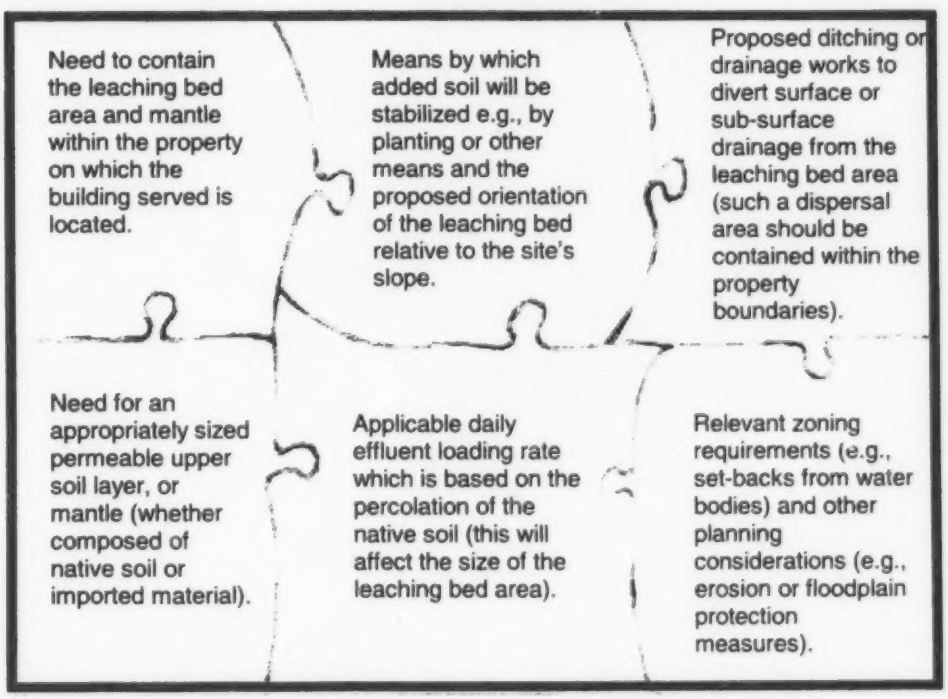
(c) Raised Septic Systems

Sometimes a septic system will be constructed partially or totally in imported fill and/or be partly or wholly raised above normal ground level. In such cases, an analysis of the site and sub-surface conditions may be requested. The Ontario Building Code sets out requirements relating to soil under the fill and soil surrounding the leaching bed, and the quality of the fill material in relation to the soil on which it is placed. Key considerations include those identified below.

Raised Septic Systems Need Special Consideration


Need to contain the leaching bed area and mantle within the property on which the building served is located.
Means by which added soil will be stabilized e.g., by planting or other means and the proposed orientation of the leaching bed relative to the site's slope.
Proposed ditching or drainage works to divert surface or sub-surface drainage from the leaching bed area (such a dispersal area should be contained within the property boundaries).
Need for an appropriately sized permeable upper soil layer, or mantle (whether composed of native soil or imported material).
Applicable daily effluent loading rate which is based on the percolation of the native soil (this will affect the size of the leaching bed area).
Relevant zoning requirements (e.g., set-backs from water bodies) and other planning considerations (e.g., erosion or floodplain protection measures).

(d) Spare or Reserve Area

Depending upon site conditions and proposed use, some planning approval authorities require an area in excess of the "suitable area" in (b) and (c) above, based upon the advice of a sewage system enforcement agency. This "spare" or "reserve" area is set aside as a safety factor in the event of failure of the existing bed. It permits the extension or replacement of the system should problems occur in the future.

Requirements for such a "spare" area would be similar to those for the "suitable" area described above. Reserve areas may be a particularly important consideration for lots on which marginally acceptable site conditions are found. Leaching beds typically have a lifespan of 15 to 25 years (sometimes longer), and may or may not be able to be reconstructed in the same location.

Even where an existing bed can be replaced, excavation of material from the bed area needs to be considered in respect of the Ministry of Environment's policy on solid non-hazardous waste under the *Environmental Protection Act* and, therefore, may need to be hauled and disposed of accordingly.

Spare areas set aside for marginal sites or for system replacement in the future should not be confused with areas deliberately set aside for sewage system expansion that is forecast to be required at the time of approval, e.g., when only part of the sewage system is constructed in the first phase of a large building development.

(e) Designated Area

If there is only one portion of a lot which provides a suitable area as described above, some planning approval authorities ask the proponent to include in the agreement with the planning approval authority a scale drawing of each lot affected showing the designated area, and a statement requiring that such areas be designated for sewage disposal only.

Alternatively, this area may be identified in a site plan agreement. If site conditions require this area to be more extensive than the minimum requirements of a "suitable area" as outlined in (b) and (c), then the "spare" area may also be included in the designated area. This would also apply to areas identified for sewage system expansion or for lot improvements. Such conditions can be registered on land title.

(f) Minimum Lot Size

The adequacy of a proposed lot for on-site sewage disposal is generally based on:

- protection of drinking water supplies;
- land use planning criteria for satisfactory sub-surface disposal for conditions encountered (e.g., nitrate loading);
- local official plan policies; and
- sewage system standards set out in the Ontario Building Code.

When considering appropriate lot sizes, a number of factors are taken into account, including:

- method of water supply, whether communal or individual wells;
- the impact of the development on groundwater quality and quantity (including interference with adjacent wells' water supply);
- community services standards;
- Ontario Building Code's requirements;
- topography and site conditions on each lot (see above);
- scope (density, housing type, lot numbers) of development being proposed;

- inclusion of site-specific amenities (swimming pools, tennis courts) on the lot; and

- official plan policies or zoning by-law requirements.

Some of these factors are related to the sewage system while others are related to land use planning criteria. It is not up to the agency enforcing the sewage system standards of the Building Code Act and the Ontario Building Code to decide appropriate lot sizes, but rather the planning approval authority through the appropriate consideration of both types of criteria. However, sewage system enforcement agencies may be able to provide information to planning approval authorities based on their experience with lot sizes for different types of septic systems.

(g) Major Land Re-grading

If a development proposal includes major re-shaping of the land, an evaluation for sewage disposal may be deferred until such time as the general area grading has been completed. In the case of some types of soil, such as heavy clays, significant re-grading or re-shaping of the land may adversely affect the functioning of the sewage system if such activity compacts the soil or removes the part of the soil best suited to treat or disperse effluent. This is particularly important when considering shallow buried trenches.

New Lots - Sewage System Standards as a Basis for Acceptance

The decision whether or not to issue a permit for a sewage system covered by the Ontario Building Code is up to the agency having authority to enforce the Building Code Act provisions relating to sewage systems. In general, if a property owner submits a complete application for a sewage system permit with the required fee, and the proposal meets the requirements of the Code and other applicable law, a sewage system permit will be issued. In most parts of Ontario, this is done by the local municipality, a Health Unit or a Conservation Authority.

In addition to providing the opportunity for a development proponent to make an application for a sewage system permit, a land use planning decision regarding a proposed consent or plan of subdivision should take account of the degree to which flexibility of future choice is required for the property owner.

For example, a decision to require that each lot contain a suitable area for a conventional leaching bed sewage system would provide the eventual lot owner with an option to use one of the several different types of sewage systems covered under the Ontario Building Code. This is because design and construction requirements for such a conventional system would normally require more area for sewage treatment than, for example, a filter bed or a shallow buried trench.

Most planning approval authorities are aware that when they request comments on a planning application from the septic enforcement agent, the review of a new lot is generally based on the requirements of a conventional leaching bed sewage system for a three bedroom house, unless a larger structure is proposed or probable. Assessment on the basis of other sewage systems is generally not provided.

Determining Lot Size in Algoma District:

The Algoma Health Unit provides planning approval authorities with comments on land use applications and has implemented a simple methodology for helping applicants to decide on lot sizes. The Unit provides applicants with charts which assign numerical values to key parameters (topography, soil and vegetative cover) which can affect septic system functionality. Based on the values assigned to these criteria, applicants are directed toward minimum lot sizes. The values are assigned as follows:

Description of Area/Development Site	Value
Topography	
- Flat land, average slope not exceeding0.6m./km	0.30
- Rolling land, average slope of 2.8m. to 3.9m./km.	0.20
- Hilly land, average slope of 28m. to 47m./km.	0.10
Soil	
- Open sandy loam	0.40
- Medium combinations of sand and loam	0.20
- Tight impervious clay	0.10
Cover	
- Woodlands	0.20
- Cultivated lands	0.10
Add up total of three values (one value per criterion)	

Based on the total value determined using the above table, minimum lot sizes are developed using the following schedule. Lots can be proposed larger than the minimums, but applicants are discouraged from proposing smaller lots as this may result in a recommendation to refuse the application.

Total Value	Minimum Lot Size	
	In Hectares	In Acres
0.9	0.4047	1
0.8	0.4562	1.127
0.7	0.5214	1.288
0.6	0.6083	1.503
0.5	0.7300	1.803
0.4	0.9125	2.254
0.3	1.2166	3.006

Note: The guideline is based on Ministry of Environment formulations to calculate nitrate levels at the boundary of developments. This guideline is for application for residential developments and the tables are calculated for this use. The calculations may be altered if the sewage is not domestic waste as the nitrate levels may exceed 40 milligram per litre. For proposal's that are for developments that will generate large volumes of sewage in excess of 4500 litres per day, and will require large sewage disposal systems, the lot size standards are increased by four times (this is based on Ministry of Environment Policy B-7). Lot sizes may have to be increased if there is background level of nitrates in the groundwater. Tables are based on "excess" water available to dilute the sewage (300 mm in Algoma). Excess water varies throughout the province.

Contact: Bill O'Donnell, Program Manager of Environmental Health
Algoma Health Unit
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odonne99@mailone.moh.gov.on.ca

An applicant may specifically propose the use of a non-conventional leaching bed sewage system in order to keep space requirements for sewage systems to a minimum. Where the septic system enforcement agent provides comments to a planning approval authority in respect of the new lots on the basis of appropriate standards for such sewage systems, this can be made clear in the subdivision agreement.

The decision to provide for a larger "suitable area" allows some flexibility in the size of the dwelling and its location on the property. Should problems occur, there would be more space on which to construct an alternative system. On the other hand, the desire to minimize development costs and/or create more modest cost housing types requires maximum use of land and may lead to acceptance of lots on which less land consumptive systems could be constructed. Balancing these interests should be an important consideration for planning approval authorities when making decisions on planning applications involving on-site sewage disposal systems.

Legal Aspects of Lot Assessment

Experience shows that when sewage system enforcement agents provide comments to planning approval authorities about applications involving on-site sewage disposal, it is prudent to adopt the following practices:

- comments or recommendations for approval or refusal should include relevant terms or conditions related to the recommendation. Reasons should be provided for such terms, particularly where the advice is for rejection;

- planning approval authority receiving the advice may accept it, reject it, or modify it, but there is an opportunity to appeal the decision of the planning approval authority if the advice is not followed. The appeal would be made to the OMB;

- development proponents who do not agree with a land use planning decision to deny the application or impose a condition (which may be based on the septic enforcement agent's comments) may appeal to the OMB. Thus, it is important for the Ontario Building Code enforcement agent to make sufficient notes and maintain records to justify the recommendation or comments at an OMB hearing; and

- comments which are provided by the Ontario Building Code enforcement agents should be limited to the authority and scope of standards which are derived from the Building Code Act and the Ontario Building Code.

Other Information:

When reviewing and making decisions on planning applications which propose on-site sewage disposal, municipalities and planning boards may wish to refer to the following technical guidelines issued by the Ministry of Environment:

- D5 Guideline - Planning for Sewage and Water Services;

- Procedure D-5-4 - Technical Guideline for Individual On-Site Sewage Systems: Water Quality Impact Risk Assessment;

- Procedure D-5-5 - Technical Guideline for Private Wells: Water Supply Assessment; and

- Guideline B-7 - Incorporation of the Reasonable Use Concept into MOE Groundwater Management Activities.

Appendix

A. **Sharing Your Innovative Municipal Planning Practices - FAX Form**

B. **For More Information**

Sharing Your Innovative Municipal Planning Practices
FAX Form

Do you have an innovative municipal land use planning practice that others would benefit from knowing about it? If so, please call the Provincial Planning and Environmental Services Branch at (416) 585-6014 or 1-800-935-0696 or list the key points below and FAX it to us at (416) 585-4245. We will call you to discuss and document your innovative ideas.

Please briefly describe your example using the following categories:

A. Identification of the issue/approach

_____
_____
_____

B. Description of example

_____
_____
_____

C. Comments from those involved

_____
_____
_____

D. Lessons learned

_____
_____
_____

E. Contact person (name and phone number)

_____

Thank you for sharing your successful planning practices.

For More Information

To share your innovative practices and learn more about others, contact the Ministry of Municipal Affairs and Housing staff located in Provincial Planning and Environmental Services Branch, Housing Development and Buildings Branch and five Municipal Services Offices across Ontario.

Provincial Planning and Environmental Services Branch
14th floor, 777 Bay St., Toronto, ON M5G 2E5
General Inquiry: (416) 585-6014
Toll Free: 1-800-935-0696 Fax: (416) 585-4245

Housing Development and Buildings Branch
2nd floor, 777 Bay St., Toronto, ON M5G 2E5
General Inquiry: (416) 585-6666 Fax: (416) 585-7455

Southwest
659 Exeter Road, 2nd floor, London, ON N6E 1L3
General Inquiry: (519) 873-4020
Toll Free: 1-800-265-4736 Fax: (519) 873-4018

East
8 Estate Lane, Rockwood House, Kingston, ON K7M 9A8
General Inquiry: (613) 548-4304 ext. 10
Toll Free: 1-800-267-9438 Fax: (613) 548-6822

Northeast
159 Cedar St., Suite 401, Sudbury, ON P3E 6A5
General Inquiry: (705) 564-0120
Toll Free: 1-800-461-1193 Fax: (705) 564-6863

Northwest
435 James St. S., Suite 223, Thunder Bay, ON P7E 6S7
General Inquiry: (807) 475-1651
Toll Free: 1-800-465-5027 Fax: (807) 475-1196

Central
777 Bay Street, 14th floor, Toronto, ON M5G 2E5
General Inquiry: (416) 585-6226
Toll Free: 1-800-668-0230 Fax: (416) 585-6882